

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAMES LAICH,

Defendant.

Case Number: 08-20089  
Honorable Julian Abele Cook, Jr.

ORDER

This is a case in which a grand jury has charged the Defendant, James Laich, with wrongfully possessing material that contained images of child pornography through the use of his computer in violation of 18 U.S.C. §§ 2252 and 2252(A), respectively. Following Laich's arraignment, the Court accepted his offer of guilt to the original charges on May 1, 2008. Prior to the imposition of a sentence against Laich, the Court received numerous letters from him in which he complained about the lack of quality of his attorney's services. Acting on the basis of these assertions, the Court conducted a hearing in an effort to determine the validity, if any, of his complaints. As a result, the Court removed his retained counsel on August 12, 2008 and, immediately thereafter, appointed the Federal Defender's Office in Detroit to represent him in this case.

On October 21, 2008, Laich, with the assistance of a substitute attorney, filed a motion to withdraw his guilty plea, stating the following:

[The] earlier plea of guilty must be withdrawn because [his newly appointed counsel] has reviewed the discovery materials and firmly believes that Mr. Laich's former counsel

should have pursued a motion attacking the sufficiency of the search warrant which was used to gain entry into and obtain evidence from Mr. Laich's home computer.

Noting that the Government has indicated that it will not take any position on the issue within this motion, the Court, after reflecting upon the short amount of elapsed time since Laich's plea was accepted, believes there would be little prejudice to the Government's case if his motion is granted. *United States v. Bashara*, 27 F.3d 1174 (6th Cir. 1994).

Therefore, the Court, following its review of the official record, concludes that Laich's new counsel should have an opportunity to address his client's concerns regarding the legal sufficiency of the Government's evidence against him. Thus, Laich's motion to withdraw his guilty plea is granted. Finally, Laich shall have a period of thirty (30) days hereinafter in which to file any motions which shall address any pertinent issues in this case.

IT IS SO ORDERED.

Dated: November 13, 2008  
Detroit, Michigan

s/Julian Abele Cook, Jr.  
JULIAN ABELE COOK, JR.  
United States District Court Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing Order was served upon counsel of record via the Court's ECF System to their respective email addresses or First Class U.S. mail to the non-ECF participants on November 13, 2008.

s/ Kay Alford  
Case Manager